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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/680,795	10/07/2003	Eric G. Hull	427600700085	4803

7590 05/25/2004

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EXAMINER	
ESTRADA, ANGEL R	

ART UNIT	PAPER NUMBER
2831	

DATE MAILED: 05/25/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.	Applicant(s)
	10/680,795	HULL ET AL.
	Examiner	Art Unit
	Angel R. Estrada	2831

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☐ Responsive to communication(s) filed on _____.

2a)☐ This action is **FINAL**. 2b)☒ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) *1-28* is/are pending in the application.

4a) Of the above claim(s) *17-24* is/are withdrawn from consideration.

5)☒ Claim(s) _____ is/are allowed.

6)☒ Claim(s) *1-3,11,12,15,16, 25 and 26* is/are rejected.

7)☒ Claim(s) *4-10,13,14,27 and 28* is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☒ The drawing(s) filed on *07 October 2003* is/are: a)☐ accepted or b)☐ objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a)☐ All b)☐ Some * c)☐ None of:

1.☐ Certified copies of the priority documents have been received.

2.☐ Certified copies of the priority documents have been received in Application No. _____.

3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) ☒ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) Paper No(s)/Mail Date _____.
4) ☐ Interview Summary (PTO-413) Paper No(s)/Mail Date. _____.
5) ☐ Notice of Informal Patent Application (PTO-152)
6) ☐ Other: _____.

DETAILED ACTION

Election/Restrictions

1. Restriction to one of the following inventions is required under 35 U.S.C. 121:

I. Claims 1-16, and 25-28, drawn to a mud box, classified in class 174, subclass 50.

II. Claims 17-24, drawn to a U shaped spring leg member, classified in class 248, subclass 906.

Inventions I and II are related as combination and subcombination. Inventions in this relationship are distinct if it can be shown that (1) the combination as claimed does not require the particulars of the subcombination as claimed for patentability, and (2) that the subcombination has utility by itself or in other combinations (MPEP § 806.05(c)). In the instant case, the combination as claimed does not require the particulars of the subcombination as claimed because the U shaped spring leg member having an attachment portion with a central cylindrical portion and a pair of generally rectangular portions extending outwardly therefrom along the length of said attachment portion is not required. The subcombination has separate utility such as a flexible support member.

Because these inventions are distinct for the reasons given above and the search required for Group I is not required for Group II, restriction for examination purposes as indicated is proper.

During a telephone conversation with H. Duane Switzer on May 5, 2004 a provisional election was made without traverse to prosecute the invention of Group I,

claims 1-16, and 25-28. Affirmation of this election must be made by applicant in replying to this Office action. Claims 17-24 are withdrawn from further consideration by the examiner, 37 CFR 1.142(b), as being drawn to a non-elected invention.

Applicant is reminded that upon the cancellation of claims to a non-elected invention, the inventorship must be amended in compliance with 37 CFR 1.48(b) if one or more of the currently named inventors is no longer an inventor of at least one claim remaining in the application. Any amendment of inventorship must be accompanied by a request under 37 CFR 1.48(b) and by the fee required under 37 CFR 1.17(i).

Drawings

2. The drawings are objected to because the reference numbers: 92b, 95, 92a and 74 in Figure 10 do not have an arrow or line that indicates the part of the invention that the number represents. A proposed drawing correction or corrected drawings are required in reply to the Office action to avoid abandonment of the application. The objection to the drawings will not be held in abeyance.

Claim Rejections - 35 USC § 102

3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

> A person shall be entitled to a patent unless –
>
> (b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1-3, 11,12, 15, 16, 25 and 26 are rejected under 35 U.S.C. 102(b) as being anticipated by Nagy et al (US 4,934,644, hereinafter Nagy).

Regarding claim 1, Nagy discloses a box (11) having an open end (see figure 5), a plurality of resilient spring legs (1) attached to said box (see figure 3), said legs (1) having free end portions engageable with one form surface for biasing said box (11) in a direction to engage said box open end with an opposite form surface (see figures 3 and 5).

Regarding claim 2, Nagy discloses the box (11) wherein said box has a bottom wall opposite from said open end (see figure 5), said spring legs (1) being attached to said bottom wall (see figure 5)

Regarding claim 3, Nagy discloses the box (11) wherein said bottom wall (see figure 5) has an external attachment projection (22) to which said spring legs (1) are attached (see figures 3 and 5).

Regarding claim 11, Nagy discloses box (11) having a bottom wall and an open end opposite from said bottom wall (see figure 5), said bottom wall having an external surface (see figure 5), and an attachment device (22) integrally formed on said external surface for attaching support legs (1) to said box (11), said attachment device (22) extending outwardly from said external surface (see figure 5).

Regarding claim 12, Nagy discloses the box (11) wherein said attachment device (22) includes a centrally located attachment projection (15).

Regarding claim 15, Nagy discloses the box (11) wherein said projection (15) has a central cylindrical portion and a transverse projection portion (12, bolt) that is spaced outwardly from said bottom wall external surface (see figure 3).

Regarding claim 16, Nagy discloses the box (11) including a generally U-shaped spring member (1) having a central attachment portion (19) with an attachment opening (13) receiving said attachment projection (22), said transverse projection (12, bolt) extending outwardly of said attachment opening (see figure 3 or 5; and from column 4 line 50-column 5 line3) to engage portions of said attachment portion and retain said spring leg member on said box (see figures 3 and 5).

Regarding claim 25, Nagy discloses a support kit for attachment to an electrical box (see figure 5), said kit including a pair of generally U-shaped spring leg members (2), each spring leg member (2) having a central attachment portion (19) with an attachment opening therethrough (13).

Regarding claim 26,Nagy discloses the kit wherein said attachment portion (19) is generally flat and said attachment opening (13) is elongated along the length of said attachment portion (see figure 1).

Allowable Subject Matter

4. Claims 4-10, 13-14, 27 and 28 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

The following is an examiner's statement of reasons for allowance: The primary reason for the indication of the allowability of claims 4-10, 13-14, 27 and 28 are:

Regarding claims 4 and 5, the prior art does not teach or fairly suggest in combination with the other claimed features a plurality of abutments spaced outwardly from said projection and forming abutment guideways therebetween, said spring legs having attachment portions that are received in said abutment guideways and have attached openings received over said attachment projection.

Regarding claim 6, the prior art does not teach or fairly suggest in combination with the other claimed features an elongated bendable strap attached to said box for attachment to reinforcement rods between spaced forms.

Regarding claims 7-8, the prior art does not teach or fairly suggest in combination with the other claimed features said spring legs being defined by a pair of spring members, each spring member having a central attachment portion with a pair of spring legs extending therefrom, said attachment portions being attached to said box in perpendicular relationship to one another to provide four spaced-apart spring legs extending outwardly from said box.

Regarding claim 9, the prior art does not teach or fairly suggest in combination with the other claimed features of said spring legs supporting said box between a pair of spaced-apart parallel concrete forms with inner form surfaces spaced-apart between 6-8 inches.

Regarding claim 10, the prior art does not teach or fairly suggest in combination with the other claimed features each spring leg having a reversely curved bifurcated end

portion to provide a pair of spaced-apart reversely curved support end portions each of which has a width that is not greater than the space between them.

Regarding claims 13-14, the prior art does not teach or fairly suggest in combination with the other claimed features a plurality of abutments spaced outwardly from said attachment projection and forming abutment guideways that extend perpendicular to one another past said attachment projection.

Regarding claims 27 and 28, the prior art does not teach or fairly suggest in combination with the other claimed features a flat bendable strap having a central attachment opening therethrough.

These limitations were found in claims 4-10, 13-14, 27 and 28, and is neither disclosed nor taught by the prior art of record, alone or in combination.

Conclusion

5. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. De Leu (US 6,648,277), Rinderer (US 4,943,022), Pfaller (US 6,491,270), Jorgensen et al (US 5,408,045), Bartow (US 5,239,132), Arnold et al (US 3,977,640), Stuchlik III (US 4,747,506) and Swanquist (US 3,730,466) discloses a box with supporting means.

6. Any inquiry concerning this communication should be directed to Angel R. Estrada at telephone number (571) 272-1973. The Examiner can normally be reached on Monday-Friday (8:30 -5:00).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Dean Reichard can be reached on (571) 272-2800 Ext: 31. The fax phone number for the organization where this application or proceeding is assigned is (703) 872-9306.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 308-0956.

Angel R. Estrada

May 5, 2004

Dean A. Reichard 5/17/04

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